

ORDINANCE NO. 10-42

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 54 ENTITLED "LAW ENFORCEMENT" OF THE CODE OF ORDINANCES OF THE CITY OF HIALEAH, FLORIDA AND IN PARTICULAR, ADDING A NEW ARTICLE, ARTICLE III. RED LIGHT TRAFFIC SAFETY, TO PROVIDE FOR REGULATIONS TO IMPLEMENT AND ENFORCE A TRAFFIC SAFETY PROGRAM THROUGH THE USE OF TRAFFIC INFRACTION DETECTORS CONSISTENT WITH GENERAL LAW AS PROVIDED BY CHAPTER 2010-80, LAWS OF FLORIDA (2010); REPEALING AND RESCINDING HIALEAH, FLA., ORDINANCE 2008-92 (DEC. 9, 2008)), THAT ENACTED HIALEAH CODE §§ 22-250--22-263, INCLUSIVE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature passed CS/CS/HB325 during the 2010 Legislative Session authorizing the use of red light cameras as traffic infraction detectors to enforce Chapter 316, the State of Florida Uniform Traffic Code; and

WHEREAS, the Governor of the State of Florida signed CS/CS/HB325 into law on or about May 13, 2010, resulting in the creation of Chapter 2010-80, Laws of Florida (2010) (the "Mark Wandall Traffic Safety Act" or the "Act") taking effect on July 1, 2010; and

WHEREAS the running of red lights continues to be a safety hazard affecting every citizen and traveler in the City of Hialeah; and

WHEREAS the City of Hialeah wishes to further reduce the running of red lights by amending its Code of Ordinances to implement the Act.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 54 entitled "Law Enforcement" of the Code of Ordinances of the City of Hialeah, Florida is hereby amended, by adding a new article III entitled "Article III. Red Light Traffic Safety", to read as follows:

Chapter 54

LAW ENFORCEMENT

* * *

ARTICLE 111. RED LIGHT TRAFFIC SAFETY.

Sec. 54-50. Purpose.

The purpose of this article is to authorize the use of traffic infraction detectors to promote compliance with red light signal directives, and to adopt a civil enforcement system for red light signal violations, all in accord with general law, including Chapter 2010-80, Laws of Florida (2010) (the "Mark Wandall Traffic Safety Act" or the "Act"). This article will also supplement law enforcement personnel in the enforcement of red light signal violations and shall not prohibit law enforcement officers from issuing a traffic citation for a red light signal violation pursuant to state law.

Sec. 54-51. Use of image capture technologies.

The city shall utilize traffic infraction detectors pursuant to general law as a means of monitoring compliance with laws related to traffic control signals, while assisting law enforcement personnel in enforcing such laws, which are designed to protect and improve public health, safety and welfare. This article shall not supersede, infringe, curtail or impinge upon state or county laws related to red light signal violations or conflict with such laws. Nothing herein shall conflict with the jurisdiction of the county to install and maintain traffic signal devices. This article shall serve to enable the city to provide enhanced enforcement and respect for authorized traffic signal devices pursuant to Florida Statutes, 316.008 and 316.0083 (2010). The city

may utilize traffic infraction detectors as an ancillary deterrent to traffic control signal violations and to thereby reduce accidents and injuries associated with such violations.

Sec. 54-52. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Intersection means the area embraced within the prolongation or connection of the lateral curb line; or, if none, then the lateral boundary lines, of the roadways of two roads that join or intersect one another at, or intersect one another at, or approximately at, right angles; or the area within which vehicles traveling upon different roads joining at any other angle may come in conflict.

Motor vehicle means any self-propelled vehicle not operated upon rails or guide way, but not including any bicycle or electric personal-assisted mobility device.

Owner or vehicle owner means a person or entity identified by the Florida Department of Highway Safety and Motor Vehicles, or other state vehicle registration office, as the registered owner of a vehicle. Such term shall also mean a lessee of a motor vehicle pursuant to a lease of six months or more.

Recorded images mean those images recorded by a traffic control signal monitoring system/device:

(a) On two or more photographs, two or more electronic images, two or more digital images, digital or video movies; or any other medium that can display a violation; and

(b) showing the rear of a motor vehicle and on at least one image, clearly identifying the license plate number of the vehicle.

Red zone infraction means a traffic offense whereby a traffic control signal monitoring system established that a vehicle entered an intersection controlled by a duly-erected traffic control device at a time when the traffic signal for such vehicle's direction of travel was emitting a steady red signal.

Traffic infraction enforcement officer means a city department employee designated by the police chief pursuant to section 54-56(b) to review recorded images and issue red zone infractions based upon those images.

Traffic control signal means a device exhibiting different colored lights or colored lighted arrows, successively, one at a time, or in combination, using only the colors green, yellow or red that indicate and apply to motor vehicles drivers as provided in F.S. § 316.075.

Traffic infraction detector means a vehicle sensor(s) installed to work in conjunction with a traffic control signal and a camera or cameras synchronized to automatically record two or more sequenced photographic or electronic images or streaming video of only the rear of a motor vehicle at the time the vehicle fails to stop behind the stop bar or clearly marked stop line when facing a traffic control signal steady red light.

Sec. 54-53. Adherence to red light traffic control signals.

Pursuant to general law, motor vehicle traffic facing a traffic control signal's steady red light indication shall stop before entering the crosswalk on the near side of an intersection or, if none, then before entering the intersection and shall remain standing until a green indication is shown on the traffic control signal; however, the driver of a motor vehicle that is stopped at a clearly marked stop line, but if none, before entering the crosswalk on the near of the side of the intersection or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection in obedience of a steady red traffic control signal, may make a right turn in a careful and prudent manner (unless such turn is otherwise prohibited by

posted sign or other traffic control device) but shall yield right-of-way to pedestrians and other traffic proceeding as directed by the traffic control signal at the intersection.

Sec. 54-54. Violation.

A violation of this article, known as a red zone infraction, shall occur when a motor vehicle does not comply with the requirements of section 54-53 hereof. Violations shall be enforced pursuant to F.S. § 316.0083.

Sec. 54-55. Implementation of general law.

Within the City, the Mayor is authorized to implement the provisions and requirements of Chapter 2010-80, Laws of Florida (2010), as may be amended from time to time, and may take any action which is necessary for such purpose.

Sec. 54-56. Review of recorded images.

(a) The owner of the vehicle, which is observed by recorded images committing a red zone infraction, shall be issued a notice of violation no later than thirty (30) days after the red zone infraction occurs. The recorded image shall be sufficient grounds to issue a notice of violation.

(b) The police chief shall designate one or more traffic infraction enforcement officers, who shall be sworn city police officers and who shall meet the qualifications set forth in F.S. § 316.640(5)(A), or any other relevant statute. The traffic infraction enforcement officer shall review recorded images prior to the issuance of a notice of violation to ensure the accuracy and integrity of the recorded images. Once the traffic infraction enforcement officer verifies the accuracy of the recorded images, such traffic infraction enforcement officer shall complete a report, and a notice of violation shall be sent to the vehicle owner at the address on record with the Florida Department of Highway Safety and Motor Vehicles or the address on record with the appropriate agency having such information in another state.

(c) If a vehicle owner receiving a notice fails to pay the penalty imposed by F.S. § 316.0083 or to provide an affidavit that complies with the provisions of F.S. § 316.0083 within thirty (30) days of the date the notice is issued, then a Uniform Traffic Citation shall be issued to the vehicle owner as provided by general law. The Uniform Traffic Citation shall be issued no later than sixty (60) days after the red zone infraction occurs.

Sec. 54-57. Notice of violation.

The notice of violation shall be served via first class mail and shall include:

- (a) The name and address of the vehicle owner;
- (b) The license plate number and vehicle identification number of the vehicle;
- (c) The make, model and year of the vehicle;
- (d) Notice that the infraction charged is pursuant to this article;
- (e) The date and time of the infraction;
- (f) The location of the intersection where the infraction occurred;
- (g) A statement that the owner has the right to review the photographic or electronic images or the streaming video evidence that constitute a rebuttable presumption against the owner of the vehicle, together with a statement of the time and place or Internet location where the evidence may be examined and observed;
- (h) Images depicting the infraction;
- (i) Instructions on all methods of payment of the penalty;
- (j) A statement specifying the remedies available under F.S. § 318.14;

(k) A statement that the owner must pay a penalty of \$158.00 to the city or provide an affidavit that complies with F.S. § 316.0083 within thirty (30) days of the date the notice is issued in order to avoid court fees, costs, and the issuance of a Uniform Traffic Citation;

(l) A signed statement by the traffic infraction enforcement officer that, based on inspection of recorded images, the vehicle was involved in and was utilized to commit a red zone infraction.

Sec. 54-58. Signage.

When the city installs a traffic infraction detector at an intersection, it shall erect signage at the intersection sufficient to notify the public that a traffic infraction detector may be in use at the intersection and shall include specific notification of intersection safety camera enforcement of violations concerning right turns. Such signage shall meet the specifications for uniform signals and devices adopted by the Department of Transportation pursuant to F.S. § 316.0745.

Section 2: Repeal of Hialeah, Fla., Ordinance 2008-92.

Hialeah, Fla., Ordinance § 2008-92 (Dec. 9, 2008), including the provisions that were later codified as Hialeah Code §§ 22-250—22-263, inclusive, is hereby repealed and rescinded in its entirety.

Section 3: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: Inclusion in Code.

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the

sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective on July 1, 2010.

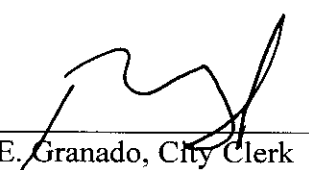
PASSED and ADOPTED this 22nd day of June, 2010.

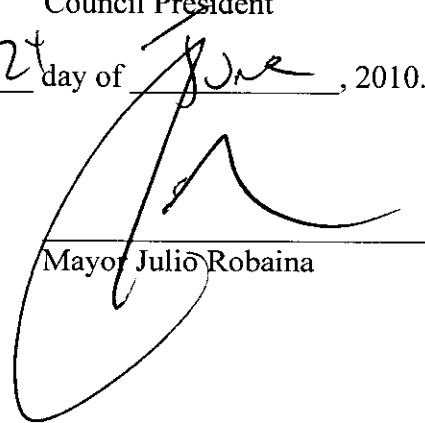
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Carlos Hernandez
Council President

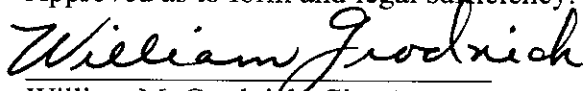
Attest:

Approved on this 24th day of June, 2010.


Rafael E. Granado, City Clerk


Mayor Julio Robaina

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

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Ordinance was adopted by a 4-3 vote, with Councilmembers Caragol, Casals-Munoz, Cue, and Yedra voting "Yes", and Councilmembers Garcia-Martinez, Gonzalez and Hernandez voting "No".